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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Applications of	)	MM Docket No. 93-301
	)	
Charles A. Farmer	)	File No. BPH-920518MA
	)	
Richard M. Schafbuch	)	File No. BPH-920521MI
	)	
For Construction Permit for a	)	
New FM Station on Channel 280C3	)	
in Ilwaco, WA	)	

To: Honorable Joseph Chachkin<sup>1/</sup>  
Administrative Law Judge

**OPPOSITION TO PETITION FOR LEAVE TO AMEND**

Richard M. Schafbuch, by his attorney, pursuant to Section 1.294(a) of the Commission's rules, hereby respectfully opposes a "Petition for Leave to Amend" filed on behalf of Charles A. Farmer on July 21, 1997.

In opposition thereto, the following is respectfully shown:

1. The purpose of the subject Petition for Leave to Amend is to substitute Mr. Farmer's widow Elizabeth as the applicant herein. The petition invokes Section 1.65 of the Commission's rules as its only attempt to meet the good cause demonstration required by Section 73.3522(b)(1) of the Commission's rules to justify a post-designation amendment.
2. Section 1.65 of the Commission's rules requires that any substantial change to a pending application must be reported as promptly as possible, and in any event within

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<sup>1/</sup> The "Petition for Leave to Amend" opposed herewith was directed to Judge Luton. Commission records indicate, though, that this case has been assigned to Judge Chachkin.

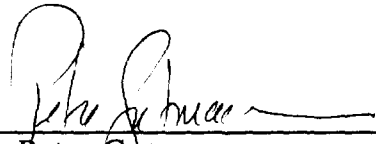
30 days, unless good cause is shown otherwise. The petition attempts no such showing. It vaguely alludes to Mr. Farmer's death as having occurred "recently" (petition, line 4). In fact, Mr. Farmer's funeral service was held November 15, 1996. It is clear that the requisites of Sections 1.65 and 1.3522 of the Commission's rules have not been met.

3. As recently as 1994, the Commission's Review Board (itself "recently" demised) emphasized that the death of a principal must be reported within 30 days of the reporting party's knowledge. Joseph Bahr, 10 FCC 2d 32 (Rev. Bd. 1994) (paragraph 7). Here, as the party reporting Mr. Farmer's death is his widow, it is clear that her knowledge arose contemporaneously with the event and well over 30 days ago. The Commission has previously rejected as an excuse for a failure to timely report that a proceeding was dormant. T.M. Rayburn, Jr., 31 FCC 2d 462 (1971) (paragraph 18). Unexcused untimeliness in reporting the death of a principal is a very serious matter, which can be disqualifying. Azalea Corporation, 47 FCC 2d 151, 154-5 (1984). For present purposes, however, the full Commission has previously emphasized that Section 1.65 may not be invoked in order to justify the unacceptably late filing of an amendment reporting a substantial and significant change in information previously furnished to the Commission as part of an application. Even when the information reported is required to cure an acceptability or grantability defect in an underlying application, the appropriate penalty for late filing is rejection of the amendment. See e.g. PrimeMedia Broadcasting, Inc., 3 FCC Rcd 4293, 4294 (paragraph 6) (1988).

In view of the foregoing, the subject Petition for Leave to Amend should be denied and the amendment proffered therewith rejected.

Respectfully submitted,

**RICHARD M. SCHAFBUCH**

By:   
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His Attorney

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July 29, 1997

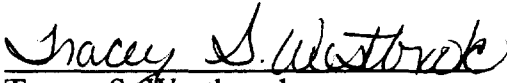
**CERTIFICATE OF SERVICE**

I, Tracey S. Westbrook, a secretary with the law firm of Pepper & Corazzini, do hereby certify that a true and correct copy of the foregoing "Opposition to Petition for Leave to Amend" was served by U.S. mail, first-class, postage prepaid on the 29th day of July, 1997, on the following individuals:

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